

Exhibit B

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LARA W. SWINDLE,

Plaintiff,

v.

JEFFERSON COUNTY
COMMISSION, et al.,

Defendants.

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CASE NO. 2:09-CV-1458-SLB

MOTION TO DISMISS

Come now the Jefferson County Commission and Jefferson County, a political subdivision of the State of Alabama, and move the Court to dismiss the County in the above styled case. In further support of this motion, the County states as follows:

1. The Complaint fails to state a claim against these Defendants upon which relief can be granted. See Turquitt v. Jefferson County, 137 F.3d 1285 (11th Cir. 1998), Wilson v. Bailey, 934 F.2d 301 (11th Cir. 1991), Terry v. Cook, 866 F.2d 373 (11th Cir. 1989) and Whitten v. Lowe, 677 So.2d 778 (Ala. Civ. App. 1995, cert. denied 1996).

2. Attached as an exhibit to this motion is the affidavit of Bettye Fine Collins, President, Jefferson County Commission, verifying that the Jefferson County

Commission has no control or authority over the Sheriff's Department, and that Plaintiff is not an employee of Jefferson County, Alabama.

/s/ T. A. Lawson, II

Bar Number: ASB-3840-L72T

Assistant County Attorney

280 Jefferson County Courthouse

716 Richard Arrington Jr. Blvd. North

Birmingham, Alabama 35203

Phone: (205) 325-5688

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Ann C. Robertson
kmc@wcqp.com

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

LaVette Lyas, General Counsel
Personnel Board of Jefferson County
2121 8th Avenue North, Suite 100
Birmingham, Alabama 35203

Robert R. Riley, Jr.
Riley & Jackson
1744 Oxmoor Road
Birmingham, Alabama 35209

Respectfully submitted,

/s/ T. A. Lawson, II
Assistant County Attorney

STATE OF ALABAMA)

JEFFERSON COUNTY)

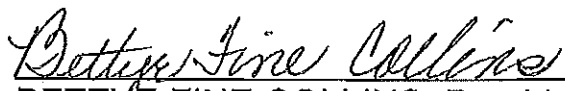
AFFIDAVIT

Before me, the undersigned Notary Public in and for said County and State, personally appeared BETTYE FINE COLLINS, who being known to me and being first duly sworn, states on oath as follows:

My name is Bettye Fine Collins. I give this affidavit based upon my personal knowledge. I am President of the Jefferson County Commission. The Jefferson County Commission is the governing body of Jefferson County, Alabama, a political subdivision of the State of Alabama.

Neither the Jefferson County Commission nor any individual commissioner has the authority to control or direct the day to day activities of the Jefferson County Sheriff's Department. The Sheriff of Jefferson County is responsible for the establishment and implementation of policies and procedures governing the operation of the Jefferson County Sheriff's Department. The entire operation of the Jefferson County Sheriff's Department is carried out by the Jefferson County Sheriff in accordance with the policies established by the Sheriff in keeping with state law.

The Jefferson County Commission only provides funds for the Jefferson County Sheriff's Department which the Sheriff uses and applies as he determines is appropriate.


BETTYE FINE COLLINS, President
Jefferson County Commission

Sworn to and subscribed before me on
this 11th day of August, 2009.


NOTARY PUBLIC

My Commission Expires: 7/25/2010